

1721, 1723 (2020) (quoting 28 U.S.C. § 1915(g)). Any of the enumerated types of dismissals counts as a strike, “whether [the dismissals are] with prejudice or without.” Id. To avoid application of the three-strikes bar, a prisoner must demonstrate that he is “under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g). The requisite imminent danger must address a danger that is “close at hand, not a past infraction,” and “must have some nexus or relation to those of the underlying complaint.” Meyers v. Comm’nr of Soc. Sec. Admin., 801 F. App’x 90, 96 (4th Cir. 2020). “Vague, speculative, or conclusory allegations are insufficient to invoke the exception of § 1915(g); rather, the inmate must make ‘specific fact allegations of ongoing serious physical injury, or a pattern of misconduct evidencing the likelihood of imminent serious physical injury.’” Johnson v. Warner, 200 F. App’x 270, 272 (4th Cir. 2006) (quoting Martin v. Shelton, 319 F.3d 1048, 1050 (8th Cir. 2003)).

The Plaintiff’s extensive litigation history includes at least three prior civil actions that count as strikes under § 1915(g): LoRusso v. McCabe, 8:20-cv-1916 (M.D. Fla. Dec. 15, 2020) (dismissal for failure to state a claim); LoRusso v. Upton, 1:03-cv-132 (M.D. Ga. Sept. 16, 2003) (dismissal as frivolous); LoRusso v. Fayetteville, Ga., 1:03-cv-005 (dismissal as frivolous); LoRusso v. Upton, 1:03-cv-138 (M.D. Ga. Sept. 16, 2003) (dismissal for failure to state a claim).

The Plaintiff’s claims relate to Florida customers’ electrical bills. He has not attempted to satisfy § 1915(g)’s imminent danger exception.

The Plaintiff has filed at least three prior civil actions that count as strikes; he has not prepaid the filing fee; and he has failed to demonstrate that he is in imminent danger of physical harm. Therefore, he may not proceed in forma pauperis pursuant to § 1915(g), and the Court will

dismiss the Complaint without prejudice.¹ The Order waiving the initial partial filing fee and directing monthly payments from the Plaintiff's inmate account will be vacated.


III. CONCLUSION


In sum, the Complaint will be dismissed as barred by the three-strikes provision of 28 U.S.C. § 1915(g). Accordingly, the Order waiving the initial filing fee and directing partial monthly payments is vacated, and this case will be closed.

IT IS, THEREFORE, ORDERED that:

1. The Plaintiff's Complaint [Doc. 1] is **DISMISSED WITHOUT PREJUDICE** pursuant to 28 U.S.C. § 1915(g).
2. The Order waiving initial filing fee and directing monthly payments [Doc. 9] is **VACATED**.
3. The Clerk of Court's Financial Department is instructed to reimburse Plaintiff the funds that have been collected for the payment of his filing fee in this case, if any.
4. The Clerk is further instructed to add Plaintiff to the Court's Filer Status Report in CM-ECF as a three-striker, and close this case.

Signed: January 30, 2023


Frank D. Whitney
United States District Judge



¹ Even if the Complaint were not barred by the three-strikes provision of § 1915(g), the Court would dismiss it because it is frivolous on the face of the Complaint.